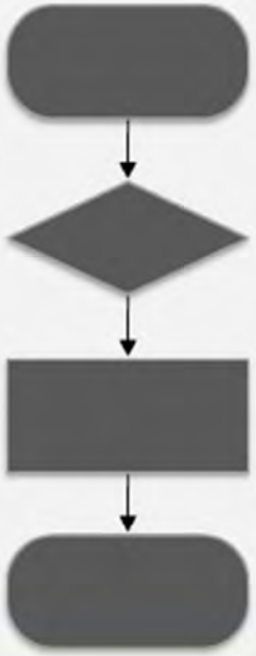
EXHIBIT 5

Claims 13 and 22 Directed to Different Technologies

'277 Patent

'091 Patent



Differences Between Claim 22 and Claim 13

Claim 22	Claim 13
• **Components of a TV subscriber station**	• **Process for locating and using decryption key**

• **Different limitations:**
  • Tuner
  • Receiver
  • Decryptor
	• **Different limitations:**
	  • Passing
	  • Determining
	  • Locating
	  • Decrypting using key

• **Instruct-to-decrypt**
  • No claimed relationship between instruct-to-decrypt signal and signal needed for decryption
	• **Instruct-to-enable**
	  • Signal that enables "determining" step
	  • Multi-step process connecting instruct-to-enable signal and decryption key

• **Preinformed technique for identifying signal**	• **Dynamic process for locating decryption key**

Decrypting/Decryption

"decrypting" / "decryption" • '091 Patent Claim 13	"a method that uses a digital key in conjunction with an associated algorithm to decipher (render intelligible or usable) digital data"

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• **Preinformed technique for identifying signal**	• **Dynamic process for locating decryption key**

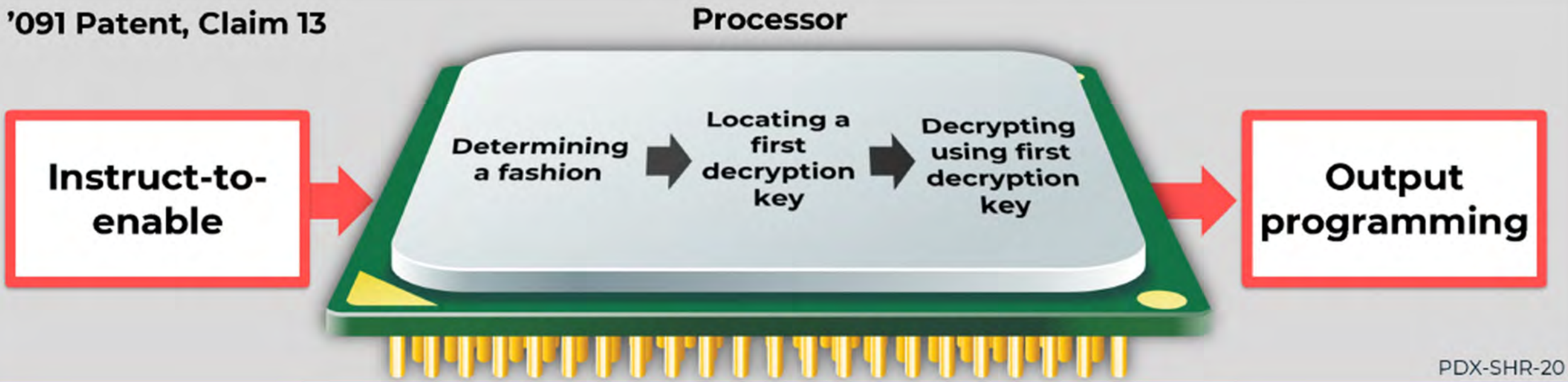
22. A television subscriber station comprising:
a receiver for receiving a plurality of television program transmissions;
a tuner for tuning said receiver to a selected one of the plurality of television program transmissions and of informing a processor of the selected transmission to which said receiver is tuned;
a decryptor operatively connected to said receiver for receiving, decrypting, and outputting some of said selected television program transmission; and
a processor operatively connected to said tuner and said decryptor, for receiving information transmitted in a selected program transmission, locating or identifying information of an instruct-to-decrypt signal associated with said selected transmission, and identifying and transferring to said decryptor a signal needed for decryption, said processor being programmed with or preinformed of the technique for identifying information of said signal needed for decryption.

DTX-420 ('277 Patent), Claim 22

Claim 22 and Claim 13 Are Patentably Distinct

'277 Patent, Claim 22

'091 Patent, Claim 13



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• **Preinformed technique for identifying signal**	• **Dynamic process for locating decryption key**

Dr. Weaver
PMC Expert

Q. When the DRM package is a SINF, how does FairPlay determine the way that the receiver station locates a first decryption key?

A. The key ID and the user ID together point to a place in the keybag where the account key is found.

Trial Tr. (Weaver) at 517:14-18

Next, the claim requires determining a fashion in which the receiver station locates a first decryption key by processing the instruct-to-enable signal.

The Court has helped us out by giving us a construction: Determining the way that the first receiver station locates a first decryption key.

And Dr. Weaver explained that the way FairPlay locates the first decryption key is by finding it in the keybag. That's the way Apple chose to design it. They had many selections, that's the way they chose.

Trial Tr. at 1039:6-15

14. The method of claim **13**, further comprising the step of computing a second decryption key, and wherein said step of decrypting comprises decrypting said encrypted information using said first and second decryption keys.

DTX-3 ('091 Patent), Claim 14

Claim 14

"decrypting said encrypted information using said first and second decryption keys."

PMC

16. The method of claim **13**, further comprising the step of storing information evidencing said step of decrypting.

DTX-3 ('091 Patent), Claim 16

13. A method of decrypting programming at a receiver station, said method comprising the steps of:

receiving an encrypted digital information transmission including encrypted information;

detecting in said encrypted digital information transmission the presence of an instruct-to-enable signal;

passing said instruct-to-enable signal to a processor;

determining a fashion in which said receiver station locates a first decryption key by processing said instruct-to-enable signal;

locating said first decryption key based on said step of determining;

decrypting said encrypted information using said first decryption key; and

outputting said programming based on said step of decrypting.

DTX-3 ('091 Patent), Claim 13

Encrypted Digital Information Transmission

"encrypted digital information transmission" • '091 Patent Claim 13	"all-digital 'programming' (as construed) that has been encrypted and moved between at least two devices"

22. A television subscriber station comprising:

a receiver for receiving a plurality of television program transmissions;

a tuner for tuning said receiver to a selected one of the plurality of television program transmissions and of informing a processor of the selected transmission to which said receiver is tuned;

a decryptor operatively connected to said receiver for receiving, decrypting, and outputting some of said selected television program transmission; and

a processor operatively connected to said tuner and said decryptor, for receiving information transmitted in a selected program transmission, locating or identifying information of an instruct-to-decrypt signal associated with said selected transmission, and identifying and transferring to said decryptor a signal needed for decryption, said processor being programmed with or preinformed of the technique for identifying information of said signal needed for decryption.

DTX-420 ('277 Patent), Claim 22

22. A television subscriber station comprising:

a receiver for receiving a plurality of television program transmissions;

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detecting in said encrypted digital information transmission the presence of an instruct-to-enable signal;

passing said instruct-to-enable signal to a processor;

determining a fashion in which said receiver station locates a first decryption key by processing said instruct-to-enable signal;

locating said first decryption key based on said step of determining;

decrypting said encrypted information using said first decryption key; and

outputting said programming based on said step of decrypting.

DTX-3 ('091 Patent), Claim 13

Determining a fashion …

"determining a fashion in which said receiver station locates a first decryption key" • '091 Patent Claim 13	"determining the way the receiver station locates a first decryption key"

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DTX-420 ('277 Patent), Claim 22

Programming

"programming" • '091 Patent Claim 13	"everything that is transmitted electronically to entertain, instruct, or inform, including television, radio, broadcast, print, and computer programming as well as combined medium programming, at least a portion designed for multiple recipients"

13. A method of decrypting programming at a receiver station, said method comprising the steps of:

receiving an encrypted digital information transmission including encrypted information;

detecting in said encrypted digital information transmission the presence of an instruct-to-enable signal;

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determining a fashion in which said receiver station locates a first decryption key by processing said instruct-to-enable signal;

locating said first decryption key based on said step of determining;

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DTX-420 ('277 Patent), Claim 22

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